

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-293-C – ORDER NO. 2004-446
OCTOBER 18, 2004

IN RE: Savannah Valley Cablevision, Inc.,)	
)	ORDER REQUIRING
Complainant/Petitioner,)	INVESTIGATION BY
)	STAFF
vs.)	
)	
West Carolina Rural Telephone Cooperative,)	
Inc. and West Carolina Communications,)	
LLC,)	
)	
Respondents.)	
_____)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Complaint filed by Savannah Valley Cablevision, Inc. (“SVC”) dated October 1, 2003, against West Carolina Rural Telephone Cooperative, Inc. (“WCRTC”) and West Carolina Communications, LLC (“WCC”) (collectively, the “Respondents”). By its Complaint, SVC alleges that WCRTC and WCC have violated the provisions of S.C. Code Ann. Sections 58-9-250 and 58-9-320 and 26 S.C. Code Ann. Regs. 103-603.

A public hearing was held on this Complaint on April 28, 2004. At the hearing, SVC was represented by Frank R. Ellerbe, III, Esquire. SVC presented the testimony of Jennings McAbee. The Respondents were represented by M. John Bowen, Jr., Esquire,

and Margaret M. Fox, Esquire. Respondents presented the testimony of David J. Herron. The Commission Staff (“Staff”) was represented by F. David Butler, General Counsel. The Staff did not present any witnesses.

Jennings McAbee, Chairman of SVC, testified that WCC’s provision of cable services causes him concern because he believes WCC has an unfair advantage in competing with private cable companies. Mr. McAbee contends that WCC’s parent company, WCRTC, receives State Universal Service Funding for the same lines WCC uses to provide cable services and that it is unfair to use subsidized lines to provision services for competitive purposes. According to Mr. McAbee, SVC seeks to have the Commission order WCRTC to file with the Commission contracts with WCC so that Staff can review those contracts to determine whether WCRTC’s dealing with WCC are proper and in the public interest.

David J. Herron, General Manager of WCRTC and President of WCC, testified regarding the relationship between WCRTC and WCC. He testified that WCRTC provides certain services to WCC pursuant to contracts between the telephone cooperative and its affiliate. According to Mr. Herron, the contracts between the cooperative and its affiliate include a Management Services Agreement, an Infrastructure Sharing Agreement, and a Billing and Collection Agreement. Mr. Herron further testified that those agreements as well as applicable tariffs and the Federal Communications Commission (“FCC”) separations rules govern the sharing of facilities and the provision of services between WCRTC and WCC. Mr. Herron testified that WCC does not unfairly

compete with SVC because WCC compensates WCRTC for all facilities and services used.

During the hearing, the Commission Staff presented no witnesses regarding the issues in the instant case. SVC complains that the Respondents violate the Commission's Rules and Regulations as well as statutes which the Commission is charged with implementing. SVC further complains that the regulated telephone cooperative may improperly subsidize the services of WCC.

In order to resolve this Complaint, the Commission desires objective information on the allegations presented; therefore, the Commission finds that the public interest requires the Commission Staff to investigate the allegations raised in the Complaint and hearing. Therefore, the Commission hereby orders that the Respondents, WCRTC and WCC, should provide within the next ten days to the Commission Staff any and all records and information belonging to them regarding or relevant to affiliated transactions, including any information concerning or relating to contracts or arrangements governing the transactions between those two companies. The Commission Staff shall review this information and prepare a report concerning the business arrangements, transactions, and contracts between WCRTC and WCC. Further, the Commission Staff shall provide a report to the Commission concerning this information and how, if in any way, such information affects the issues raised by SVC in this case. Staff shall submit this report not later than June 8, 2004. Staff is further ordered to provide a copy of such report to all the parties to this action. The parties shall thereafter have until June 22, 2004, to provide any arguments concerning the Commission's findings. Such arguments shall be submitted to

/s/
G. O’Neal Hamilton, Vice Chairman